

**Summaries of NHDES-related Environmental Legislation
Adopted in the 2006 New Hampshire Legislative Session**

HB 1146 Chapter 257 Effective: June 9, 2006

establishing a state energy policy commission.

- Establishes a commission to study the adequacy of electricity supplies to meet demand including consideration of various issues such as reliability, diversity of fuel supplies, renewable portfolio standards, energy efficiency as well as others.
- The Commissioner of DES or designee (Bob Scott) is assigned to the committee.
- The committee is required to submit an interim report of its findings and recommendations by December 1, 2006 and a final report by December 1, 2007.

HB 1228-FN Chapter 98 Effective: July 8, 2006

relative to the sale or lease of state-owned real estate and relative to penalties under the real estate practice act.

- Requires state agencies to charge an administrative fee for costs incurred by the agency in preparing to sell or lease real property.

HB 1265 Chapter 199 Effective: May 31, 2006

extending the final report date of the commission to study the relationship between public health and the environment.

- Extends the final report date of the commission to study the relationship between public health and the environment until November 1, 2007.
- A DES designee is assigned to the committee. The committee is required to submit a final report of its findings and recommendations by November 1, 2007.

HB 1307 Chapter 100 Effective: January 1, 2007

relative to application requirements for motor vehicle recycling yard licenses.

- Requires an applicant applying for a yearly local license to operate a motor vehicle recycling/junk yard to certify to the local licensing authority that the facility is in compliance with DES best management practices for such facilities.
- Requires affected facilities to be in compliance with DES BMPs in order to obtain a license to operate and is expected to improve environmental procedures at presently non-complying facilities.
- Upon inquiry by the local authority, DES will have to provide information indicating the applicant's compliance status with respect to the appropriate DES BMPs. May require DES to perform an inspection and reply in writing to the local authority.

**HB 1315 Chapter 306 I Sec 8 Effective: June 19, 2006;
Remainder Effective: August 18, 2006**

relative to the definition and classification of dams, the acceptance of Jericho Lake dam and dike in Berlin, the F&G dept's acquisition of property rights to Big Brook Bog dam in Pittsburg, and the study of potential sources of funding for the repair and maintenance of dams by the state.

- Changes the names for classification of dams from letters to names based on the hazard potential of the dam.

- Exempts certain storm water detention dams from the definition of “dam.”
- Authorizes the Dept. of Resources and Economic Development to accept the Jericho Lake dam and dike in Berlin.
- Authorizes the Fish and Game Dept. to acquire property rights to Big Brook Bog dam in Pittsburg.
- Requires the dam management review committee to study and report on the potential sources of funding for the repair and maintenance of dams by the state.

HB 1317 Chapter 144 Effective: May 22, 2006

relative to the control or eradication of exotic aquatic weeds and requiring a review by the department of agriculture, markets, and food, the DES, the fish and game department, and the DRED, evaluating the current permitting process for special permits for aquatic applications of pesticides to control or eradicate exotic aquatic weeds and making recommendations to improve the process.

- Changes certain criteria for the control of exotic aquatic weeds.
- Requires a report from DES, the Dept. of Agriculture, Markets and Food, the Fish and Game Dept. and the Dept. of Resources and Economic Development that evaluates the current permitting process for special permits for aquatic applications of pesticides to control or eradicate exotic aquatic weeds and makes recommendations to improve the process.
- The committee’s report will include recommendations for rules change or legislation, or both.

HB 1343 Chapter 307 Effective: July 1, 2006

relative to the duties of the council on resources and development, and making bonded appropriations to the DES and the NH veterans’ home.

- Requires the Council on Resources and Development to give advice, rather than approval, prior to the disposal of state-owned lands.
- Removes the binding effect of the council’s recommendations relative to coordination of member agencies.
- Requires the council to provide the legislature and G&C with copies of the council’s meeting minutes.
- Requires the NH Housing Finance Authority to obtain the approval of the long-range capital planning and utilization committee, with advice from CORD, and final approval by the G&C, prior to the transfer of lands under the surplus lands housing program.
- Makes an appropriation to DES for completing the e-permitting database from certain dedicated funds.

HB 1349 Chapter 102 Effective: July 8, 2006

relative to costs of personnel and rates for equipment use in hazardous waste incidents.

- Requires the commissioner of Safety to establish rates for equipment use, supplies, and costs of personnel that shall be the maximum amount that may be charged by any municipality, organization, or mutual aid district in response to hazardous waste incidents.
- Affects primarily municipalities; it does not affect DES.

HB 1351**Chapter 145****Sect. 10 Effective: May 22, 2006****Remainder Effective: July 21, 2006***relative to the rulemaking process.*

- Adds new RSA 14:39-a to require bills to include a statement of intent when rulemaking authority is delegated; prohibits general rulemaking authority (legislation “shall specify the issues to be addressed by rules”).
- Amends RSA 541-A:3-a, II to allow cross-reference table to be placed on last page of text of rules (separate page no longer required).
- Amends RSA 541-A:7 to allow rules to be written to be understandable by “those persons who engage in the activities that are regulated by the rules, which may include technical language as necessary.”
- Amends RSA 541-A:13, V(b) to allow JLCAR to send copies of preliminary objections on rules proposed to implement a new or newly amended state statute to the relevant policy committee(s) for input re: intent, *etc.*
- Amends RSA 541-A:13, VII(c) and (d) to impose a deadline on when a joint resolution has to be introduced for legislative action; if the deadline is not met, the agency can adopt the rules that were subject to the joint resolution. (Eliminates “pocket veto” of rules.)
- Amends RSA 541-A:19, II (intro) to eliminate the requirement to obtain a Fiscal Impact Statement for interim rules that are being proposed to extend existing rules while regular rules are being adopted or to otherwise minimize the gap between expiration and readoption.
- Amends RSA 541-A:19, II(a) and (b) and III to eliminate the requirement to file a notice of proposed interim rule with the Legislative Budget Assistant.
- Establishes a new committee to “study how to improve the processes of the Joint Legislative Committee on Administrative Rules.”
- Repeals RSA 541-A:16, I(b)(1), which required agencies to adopt as rules “a description of all forms and instructions used by the agency.”
- Legislation should improve the rulemaking process for all administrative agencies, including DES. There are no requirements for DES action in the bill (and so no deadlines).

HB 1356**Chapter 83****Effective: July 4, 2006***relative to on-board diagnostic system inspections.*

- Requires safety inspection stations to conspicuously post on the outside of the building a sign showing the inspection fee charged and the additional fee charged for OBD II testing.
- Specifically disallows inspection stations from including the cost of OBD II testing or reporting in the inspection fee charged for a vehicle not subject to the OBD II requirements.
- This legislation does not impact DES.

HB 1373**Chapter 261****Effective: June 9, 2006***establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.*

- Establishes a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

- DES shall have two representatives on the commission. Representatives will also come from the House, Senate, NH Association of Septage Haulers, NH Lodging and Restaurant Association, NHWPCA, and UNH (biodiesel research).
- The commission shall study the ability of DES to assist municipalities in regard to rules, regulations, penalties, and BMPs for grease trap sizes, cleaning cycles, standards, and pumping.
- The commission shall report its findings on or before November 1, 2007.

HB 1407-FN Chapter 281 Effective: June 15, 2006

relative to funding exotic aquatic weeds eradication and control.

- Makes permanent the milfoil and other exotic aquatic plants prevention program and the increase in the boat registration fee used to fund the lakes restoration and preservation fund for exotic aquatic weeds prevention and eradication.

HB 1418-FN Chapter 58 Effective: July 1, 2006

relative to road toll refunds.

- Authorizes the payment of road toll refunds to the navigation safety fund or the lake restoration and preservation fund to be allocated to the control and prevention of exotic aquatic species, if requested by the applicant.

**HB 1429 Chapter 282 I Sec 1,2 Effective: September 13, 2006
II Remainder Effective: June 15, 2006**

relative to municipal exemptions for hazardous waste cleanup liability and preventing the exemption of privately-owned landfills and ancillary facilities from property taxes.

- Exempts municipalities and their employees from liability under RSA 147-A and 147-B for releases of household hazardous waste during the lawful transportation of the waste to a regional collection facility. DES assumes the responsibility for containment, cleanup, restoration and study resulting from such a release with costs resulting from those activities charged to the hazardous waste cleanup fund established under RSA 147-B:3.
- Prohibits privately owned landfills from obtaining a municipal property tax exemption related to installation of pollution control devices or ancillary facilities located at such landfills.
- When household hazardous waste is released into the environment during the lawful transport by a municipal employee to a collection facility, DES is obligated to use the hazardous waste cleanup fund to undertake environmental sampling, clean up the release and restore affected property. This legislation is intended to provide incentive to municipalities to participate in the DES HHW program by limiting the liability, insurance for which municipalities cannot secure or afford.

HB 1433 Chapter 186 Effective: June 30, 2006

establishing a moratorium on the incineration of construction and demolition waste.

- Prevents the incineration of construction and demolition debris in New Hampshire through December 31, 2007, with minor exceptions for incidental incineration by municipal combustors in operation as of January 1, 2005.

HB 1455-FN Chapter 171 Effective: July 1, 2006

relative to the disposal of video display devices.

- Adds the definition of video display devices to RSA 149-M:4 and bans the disposal of such devices in landfills and incinerators after July 1, 2007.
- DES is required to monitor and participate in any regional initiatives regarding the financing and disposal of electronic wastes and shall report the results of such efforts to the House Environment and Agriculture Committee and the Senate Environment and Wildlife Committee by November 1, 2006.

HB 1464-FN Chapter 284 Effective: July 1, 2006

relative to mosquito control, establishing a mosquito control fund, making a appropriation therefor, and relative to a public health response to arbovirus.

- Establishes a mosquito control fund.
- Establishes a two-year task force, on which DES shall have a representative, for the purpose of facilitating a coordinated local, regional, and state response to arboviruses in the state.
- The task force shall establish a mechanism to work with landowners for determining when a pond, marsh land, or wetland on private property is found to be creating a standing water hazard and a method to permit local communities to receive assistance from DES and the Fish and Game Dept. to determine if the standing water hazard can be removed.

HB 1491 Chapter 309 Effective: June 19, 2006

extending certain deadlines relative to the Great Bay Estuary Commission and the Estuary Alliance for Sewage Treatment and establishing a commission to study the publicly owned treatment plants needs of NH and state laboratory water tests and fees.

- Extends the reporting deadline of the Great Bay Estuary Commission and extends the first meeting deadline of the Estuary Alliance for Sewage Treatment.
- Establishes a commission to study the publicly owned treatment plants needs of NH and state laboratory water tests and fees for such tests collected by DES.
- The commission shall report its findings on or before November 30, 2007.

HB 1579 Chapter 62 Effective: June 23, 2006

relative to membership of the air resources council.

- Adjusts the qualification requirements for what traditionally has been a seat on the Air Resources Council filled by a licensed practicing physician; the position now allows for a licensed practicing physician or other health care professional possessing expertise in the field of public health and the health-related impacts of air pollution.
- This legislation does not impact DES.

HB 1584 Chapter 87 Effective: July 4, 2006

relative to cemetery setbacks and septic systems.

- Requires DES to include known burial sites or cemeteries in the information to be included on plans for sewage disposal systems.

- Prohibits DES from approving a plan that does not meet the requirements for setbacks from cemeteries and burial sites.

HB 1609 Chapter 63 Effective: April 24, 2006

requiring a pilot project to estimate future water needs and availability.

- Requires DES to conduct a pilot project to devise methods of estimating future water needs and availability for a 10-year planning period within a defined geopolitical area of the Seacoast. The project shall include an analysis of all current water withdrawals, estimated available surface and groundwater, and estimates of future water needs of municipal water systems, residential, agricultural, commercial, and industrial water users with the study area.

HB 1667-FN Chapter 241 Effective: January 1, 2007

establishing penalties for meth manufacturing and possession of substances with intent to manufacture meth.

- Establishes penalties for methamphetamine manufacturing and possession of substances with intent to manufacture meth.
- DES or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which meth production has occurred, meets remediation cleanup standards established pursuant to rules adopted by DES under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from DES.
- A court may require a person convicted of manufacturing or attempting to manufacture methamphetamine, where the response to the crime involved an emergency response or a hazardous substance cleanup operation, to pay restitution to all public entities, or private entities under contract to a public entity, that participated in the response or the cleanup. The restitution ordered shall cover the reasonable costs of the entities' participation in the response and the reasonable costs of the site cleanup.
- In addition to the restitution authorized in above paragraph, a court may require a person convicted of manufacturing or attempting to manufacture methamphetamine to pay restitution to a property owner who incurred removal or remediation costs as a result of the crime.

HB 1673-FN Chapter 105 Effective: August 7, 2006

relative to the reduction of mercury emissions.

- Provides for an 80 percent reduction of mercury emissions from coal-burning power plants by requiring the installation of scrubber technology no later than July 1, 2013.
- Provides economic incentives for earlier installation and greater reductions in emissions.
- Expected to have a significant environmental impact in that mercury emissions from coal-burning power plants will be reduced by at least 80 percent.
- DES will be required to review applications for new or modified air operating permits from subject facilities as they are submitted.
- DES will be required to inspect monitoring and testing activities to assure target reductions are achieved.

HB 1747-FN Chapter 293 Effective: July 1, 2006

establishing a NH healthy tidal waters and shellfish protection program and making an appropriation therefor.

- Establishes a New Hampshire healthy tidal waters and shellfish protection program and fund within DES, and makes an appropriation to fund the program.
- Replaces federal funds received in past years with state funds in order to keep the existing program fully operational.

**HB 1758 Chapter 294 I Sec 5-9 Effective: April 1, 2006
II Remainder Effective: August 14, 2006**

classifying bio-oil, bio synthetic gas, and biodiesel as a renewable energy sources and relative to taxation of renewable generation facilities.

- Specifies that bio-oil, bio synthetic gas, and biodiesel are renewable energy sources for certain purposes.
- Not expected to have a significant environmental impact initially, however by identifying biodiesel as a renewable energy source, there could be an increase in use of biodiesel in New Hampshire, which could reduce certain emissions from mobile sources.
- Does not impact DES directly, however, mobile sources staff is usually involved in initiatives in New Hampshire that involve renewable fuels.

SB 140 Chapter 313 Effective: August 18, 2006

relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and preservation of upland areas adjacent to wetland areas.

- Allows DES to accept monetary payments in lieu of other forms of compensatory mitigation for wetlands for certain small projects.
- Establishes a mitigation fund for the payments.
- Establishes a committee, on which the commissioner of DES or designee shall sit, to select projects that will compensate for the loss of wetlands and which may be funded from the mitigation fund.

SB 250 Chapter 314 Effective: January 1, 2007

relative to lead paint poisoning prevention.

- Clarifies enforcement procedures regarding orders of lead hazard reductions.
- DES has been given discretion relative to extending the action deadline for lead hazard reduction of an occupied dwelling or dwelling unit.

SB 255 Chapter 121 Effective: May 15, 2006

establishing a committee to study the funding necessary to operate the hazardous materials program in NH.

- Establishes a committee consisting of two members each from the House and Senate to study the funding necessary to operate the hazardous materials program in New Hampshire, including incident response costs and costs of the Department of Safety's hazardous materials coordinator and the training of hazardous materials response teams.
- While this legislation does not directly affect DES, DES responds to petroleum and hazardous materials incidents along roadways and other areas and may arrange for DES contractors to mitigate the releases.

Although the language of this bill suggests it is aimed at funding the DOS incident response program, it is possible that legislation arising from this committee may also help support the DES response team responding to petroleum or hazardous waste incidents in certain locations.

SB 282 Chapter 254 Effective: August 4, 2006

relative to removal of abandoned vehicles.

- Modifies procedures and requirements relating to vehicles submerged in surface waters of the state and adds petroleum containers to the submerged vehicle statute, which requires DES to investigate any possible contamination and ensure the safe removal of the vehicle or container from the body of water involved.

SB 341 Chapter 222 Effective: June 1, 2006

relative to the applicability of OBD II testing requirements.

- Extends the waiver period for repairs of vehicles found to fail OBD II testing as part of the safety inspection.
- The environmental impact will be that emissions reduction that would have been realized as a result of OBD II inspection failures will be delayed until at least July 1, 2007.
- Does not impact DES specifically.

SB 371-FN Chapter 298 Effective: June 15, 2006

relative to the continuation of certain wetlands fees.

- Extends the current fee for an excavating and dredging permit until July 1, 2010.
- Requires the DES Wetlands Bureau to make a report on the permitting process available to the legislature. The report shall include the number of applications received, associated fees, the number of applications waiting for review, and the average number of days required to issue permits for minimum impact, minor impact, major impact and shoreline structure permits.

SB 386 Chapter 322 Effective: August 21, 2006

relative to large groundwater withdrawals.

- Adds a definition of “large groundwater withdrawal.”
- Adds administration of the public trust interests in groundwater to the duties of DES.
- Adds an appeal to the superior court to the appeal process for large groundwater withdrawal permits.
- Enables any municipality from which groundwater will be withdrawn or diminished to request a determination from DES that the public trust is not being violated.
- Creates an intervenor status for municipalities impacted by a large groundwater withdrawal.

SB 387 Chapter 159 Effective: July 21, 2006

relative to energy efficiency loans and guarantees by the business finance authority.

- Establishes an energy conservation loan program to encourage small businesses and agricultural entities to improve energy efficiency, particularly through the adoption of conservation and cogeneration initiatives.
- No significant environmental impacts other than some reductions in air pollutant emission associated with reduced energy demand.

- This legislation does not impact DES specifically.

SB 388

Chapter 326

Effective: August 25, 2006

relative to farm composting and pesticides.

- Adds composting to the list of defined farm activities and designates compost as a farm product.
- Specifies pesticides for inclusion in state management plans to protect groundwater from pesticide contamination.